

REMARKS

The courtesies extended to the undersigned attorney for applicant by examiner Mai during an interview on May 5, 2009 are noted.

During the interview, a bottle configured substantially as disclosed in the application as filed was demonstrated. The demonstration involved pushing the neck of the bottle downwardly, substantially as illustrated in figure 4 of the application. In addition, the neck of the bottle was tilted as illustrated in figure 5 of the application. Tilting was performed several times, each in a different radial direction relative to the axis of the body of the bottle.

During the interview, attorney for applicant indicated independent claims 6 and 14 would be amended and new independent claim 18 would be added.

Claims 6 and 14 are being amended to indicate the flange-shaped part is formed to enable one widthwise side thereof to be held in a state of being deformed upward as a convex shape while the other widthwise side thereof is held in a state of being deformed downward as a concave shape by deforming one part of the flange-shaped part downward and deforming other parts upward, so the neck portion which is above the flexible portion can be held in a state of being inclined toward the other widthwise side, as evident from figure 5 of the application as filed, and discussed in paragraph 0027 of the application as published. Claims 6 and 14 are also being amended to indicate the neck can be inclined toward any side in the radial direction of the flexible part, as indicated from the last sentence of paragraph 0027 of the published application.

New claim 18, as presented to the examiner, defined the structure of the neck as including a round lip, corresponding to upper part 2d and a flexible sidewall portion, corresponding with flexible part 3 and upper neck portion, corresponding with upper neck portion 2b, as illustrated in figures 3-5, and described in the application as published in paragraphs 0023-0026. Claim 18, as presented to the examiner, also required the neck to have first and second positions. In the first position, illustrated in figure 3, (a) the neck longitudinal axis was required to be coaxial with the longitudinal

axis of the container, (b) the flexible sidewall portion was required to have cross-sections having trapezoidal shapes, (c) a second intersection, defined as the intersection of the flexible sidewall portion 3 with the upper neck portion 2b, was required to be farther from the container body than a first intersection, defined as the intersection of the flexible sidewall portion 3 with the round lip 2d, and (d) the first and second intersections were required to be substantially at right angles to the container axis. In the second position, claim 18 required (a) the neck longitudinal axis to be tilted with respect to the longitudinal axis of the container, as illustrated in figure 5. In addition, in the second position, the second intersection was required to be tilted with respect to the longitudinal axis of the container so that a first side of the second intersection is closer to the container body than the first intersection and a second side of the second intersection is farther from the container body than the first intersection. Claim 18, as presented to the examiner, also indicated the first intersection was substantially at right angles to the container axis.

Because the newly added features of claims 6, 14 and 18 have not been searched, Examiner Mai would not make a commitment during the interview concerning the allowability of the amendment to claims 1 and 14 or claim 18. He seemed to agree that the foregoing amendments to claims 1 and 14 were not disclosed by the art previously applied against claims 1 and 14, that is, Reyner (US Patent 4,645,078), Weber (US Patent 4,492,324) and Jones (US Patent 4,790,361), all of which were applied against claims 6 and 14 as anticipatory references under 35 USC 102 (b). Examiner Mai also seemed to agree that none of these three references disclose the second position requirements of claim 18, as outlined above. However, examiner Mai felt that the embodiment of figures 7-10 of Brach et al. (US Patent 4,572,412), cited as a secondary reference for a different purpose in connection with the rejection of claims 8, 9, 12 and 13, was relevant to the above proposed requirements of claims 6, 14 and 18.

With regard to claims 6 and 14, Brach et al. fails to disclose or make obvious the requirement for the neck to be able to be inclined toward any side of the container body in the radial direction of the flexible part. Because of the channel construction of nominal bending line 50, discussed in column 5, lines 54-56, or the construction

illustrated in detail in figure 10 of nominal bending line 50 including inclined ring surfaces 47 and 48 and the connection of the bending line 50 to folding axis 51, shoulder section 12 of Brach et al. cannot be inclined toward any side of main container part 10 in the radial direction. Claim 18, as submitted herewith, similarly distinguishes over Brach et al. by requiring the second position to be able to be in any radial direction relative to the longitudinal axis of the container.

New independent claim 21, as submitted herewith, distinguishes over Brach et al. by requiring the neck to have a third position, wherein the neck longitudinal axis is coaxial with the longitudinal axis of the container body in the flexible sidewall portion is compressed so the second intersection is closer to the container body than in the first position, and the first and second intersections to be substantially at right angles to the container axis, as illustrated by figure 4 of the application as filed. Because of the channel construction of bending line 50 or the construction of bending line 50 illustrated in figure 10 of Brach et al., shoulder section 12 cannot have such a configuration.

Brach et al also does not appear to include the limitations of newly added dependent claim 17, requiring a plurality of the concave shaped parts of the type defined by claim 7 to extend from the upper surface side of the flange-shaped part to the upper end side of the neck below which is located the peripheral edge of the flange-shaped part, so that when the flange-shaped part is deformed in the back-and-forth direction, a stress in the circumferential direction which is produced in the peripheral edge of the flange-shaped part is absorbed by the deformation of the concave shaped parts in the circumferential direction.

The remaining dependent claims are allowable with the claims upon which they depend.

In view of the foregoing amendments and remarks, allowance is in order.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

LOWE HAUPTMAN HAM & BERNER, LLP

/Allan M. Lowe/

Allan M. Lowe
Registration No. 19,641

1700 Diagonal Road, Suite 300
Alexandria, Virginia 22314
(703) 684-1111
(703) 518-5499 Facsimile
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AML/cjf